



TOWN OF FAIRFAX

STAFF REPORT

May 2, 2018

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Discuss/consider residents' petition regarding "a prescriptive right public easement on the former Wall Property"

RECOMMENDATION

Direct the Town Attorney to research the matter and report back to the Town Council.

DISCUSSION

On April 17, 2018, the attached petition was submitted to the Town, signed by 28 residents of the Town. Pursuant to Town Code 2.08.090 (C), if the Council is presented with a petition signed by at least 25 residents urging consideration of an issue, the issue shall be placed on the Council's agenda. The residents' petition requests that the Town Council "Direct the Town Attorney to initiate a prescriptive right public easement on the former Wall Property." The rationale behind prescriptive easements is that long-time users of property may acquire a legal interest at the "expense" of property owners who have not asserted their rights.

It should be noted that over the past 10 years, the Town has pursued legal action to secure public access easements over privately owned property on one occasion (the Berg Property). In that case, the Town did not prevail at trial and was unsuccessful on appeal.

FISCAL IMPACT

N/a

ATTACHMENT

Residents' Petition